IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

WP(C).No. 5505 of 2004(E)

ID.56/2001 of INDUSTRIAL TRIBUNAL, KOLLAM

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PETITIONER:

PULIYILA HANDLOOM SANGHAM NO. 3337,
PULIYILA P.O., KOLLAM, REPRESENTED BY ITS
PRESIDENT MR.P.G.SIVAMANDAN, RESIDING AT JITHIN
NIVAS, PLAVILA, PULIYILA, NALLILA P.O.,
KOLLAM, KOLLAM.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.S.HARIKRISHNAN

RESPONDENTS:

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1. K.SOMAN, NANJU BHAVANAM,
PAZHANGALAM, NALLILA P.O., KOLLAM.

2. THE INDUSTRIAL TRIBUNAL, KOLLAM.

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
SRI.N.HARIDAS
SRI.H.SUNDEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE VOUCHER DATED 31.1.2000 SHOWING RECEIPT OF ALOWANCE OF RS.1000/- FOR THE MONTH OF JANUARY 2000 BY THE 1ST RESPONDENT.

EXT.P2: TRUE COPY OF THE PETITION DATED 2.9.2000 FILED BY THE 1ST RESPONDENT BEFORE THE DISTRICT LABOUR OFFICER, KOLLAM.

EXT.P3; TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE INDUSTRIAL TRIBUNAL.

EXT.P4: TRUE COPY OF THE PETITION DATED 10.02.2003 TO SET ASIDE EXPARTE FILED BY THE 1ST RESPONDENT BEFORE THE INDUSTRIAL TRIBUNAL, KOLLAM.

EXT.P5: TRUE COPY OF THE AWARD DATED 15.10.2003 IN I.D.NO.56/2001 OF THE INDUSTRIAL TRIBUNAL, KOLLAM.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.5505 OF 2004

DATED THIS THE 23rd DAY OF MARCH, 2007

JUDGMENT

The petitioner is the management in I.D.No.56/01 before the Industrial Tribunal, Kollam. They are challenging Ext.P6 award in that I.D. Ext.P6 is an ex-parte award. Their contention is that before passing this award, the workman was set ex-parte and he filed an application to set aside the ex-parte order, in respect of which the management had no notice. Since Ext.P6 award has been passed after setting aside the ex-parte order against the workman, without notice to the management, Ext.P6 award is vitiated, is the submission made by the learned counsel for the petitioner.

2. Learned Counsel for the workman submits that even before the workman was set ex-parte, the management had already been set ex-parte and therefore when the petitioner filed an application to set aside the ex-parte order against him, there is no question of serving copy of the application to set aside the ex-parte order against the workman on the management. On that ground , the learned counsel for the workman stoutly supports Ext.P6 award.

3. I have considered the rival contentions in detail.

Admittedly Ext.P6 award is an ex-parte award. Both sides were not very diligent in prosecuting their cases and both were set ex-parte. The workman filed an application to set aside the ex-parte admittedly without serving copy to the management. In such circumstances, I am not satisfied that the Tribunal had done the right thing in setting aside the ex-parte order against the workman alone and passing the award without any notice to the management. In any event, since both the parties were negligent in the matter of prosecuting their cases, it is only appropriate that the matter to be adjudicated on merits after affording an opportunity of being heard to both sides.

4. Accordingly, I set aside Ext.P6 award and remand the matter to the Industrial Tribunal, Kollam for fresh adjudication. The Industrial Tribunal, Kollam shall take back I.D.No.56/01 on files and dispose of the I.D. afresh after affording an opportunity to adduce evidence to both sides and after hearing both sides. The parties shall appear before the Tribunal on 4.6.07. The Tribunal shall try to dispose of the matter without any further delay, since the dispute is of the year 2001.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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